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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

MASAMICHI ITO ET AL.

Application No.: 09/903,706

Filed: July 13, 2001

For: DATA COMMUNICATION SYSTEM,  
PRINTING SYSTEM AND DATA  
COMMUNICATION APPARATUS

Examiner: G.C. Neurauter

Art Unit: 2158

February 7, 2005

MAIL STOP: PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

SECOND PETITION UNDER 37 C.F.R. § 1.182  
TO CORRECT APPLICATION PAPERS IN USPTO FILE

Sir:

A Communication (Paper No. 11, copy enclosed as exhibit H) was issued by the U.S. Patent and Trademark Office ("USPTO") on December 10, 2004, dismissing the Petition Under 37 C.F.R. § 1.182 To Correct Application Papers In The USPTO File filed July 16, 2003, and requiring Applicants to submit the items identified in item 14 discussed below. Applicants now submit the present Petition in compliance with the Communication's requirements.

RELIEF REQUESTED

Applicants petition to replace the application papers in the file of the USPTO for the above-identified application ("the '706 application") with the correct application papers for the '706 application.

**BEST AVAILABLE COPY**

## FACTS

1. The '706 application was filed on July 13, 2001, and is a division of Application No. 09/024,187 filed on February 17, 1998. A copy of the receipt postcard bearing the date stamp of the USPTO is attached as exhibit A.

2. As indicated on the receipt postcard of exhibit A, the '706 application was filed with 91 pages consisting of the specification, the claims, and the abstract, and with 28 sheets of formal drawings. A copy of the 91 pages of the '706 application is attached as exhibit B. A copy of the 28 sheets of formal drawings for the '706 application is attached as exhibit C.

3. As indicated on the receipt postcard of exhibit A, a Transmittal Form was submitted with the '706 application. A copy of the Transmittal Form is attached as exhibit D.

4. As indicated on the Transmittal Form of exhibit D, the '706 application is a division of "prior application No. 09/024,187" and incorporates by reference the entire disclosure of the prior application, should a portion of the prior application be inadvertently omitted from the application papers of the '706 application.

5. A copy of the inventors' declaration for the prior application is attached as exhibit E.

6. As indicated on the receipt postcard of exhibit A and the Transmittal Form of exhibit D, a Preliminary Amendment And Information Disclosure Statement ("the PA/IDS"), a PTO-1449 form, and copies of four documents were filed with the '706 application. A copy of the PA/IDS and a copy of the PTO-1449 form are attached as exhibit F. Also attached at exhibit F are single copies of U.S. Patent Nos. 5,815,205, 5,848,420, and 5,619,646, cited in the PTO-1449 form.

7. As indicated at page 2 of the PA/IDS of exhibit F, an application that was co-pending at the time ("the co-pending application") was cited and a copy of the co-pending

application was provided with the PA/IDS. The co-pending application is identified in the PA/IDS as Application No. 09/053,748. A copy of the co-pending application is attached as exhibit G (including the drawings).

8. As indicated in the PA/IDS, that paper canceled original claims 19-29, leaving only original claims 1-18 pending for examination.

9. As indicated on the Transmittal Form of exhibit D, there were a total of 18 claims and 6 independent claims in the '706 application, taking into consideration the claim cancellations in the PA/IDS.

10. In the Office Action dated October 1, 2002, in the '706 application, the Examiner rejected claims 1-18 and 31-41. The Office Action included quotations of various portions of the rejected claims.

11. In the Amendment filed on April 1, 2003, Applicants responded to the rejections by stating, *in alia*, that the pending claims do not include certain features/claims identified in the Office Action.

12. In the Office Action dated June 16, 2003, the Examiner stated that "the specification is incorrect."

13. Applicants filed a Petition Under 37 C.F.R. § 1.182 To Correct Application Papers In The USPTO File on July 16, 2003, as a result of the Office Action dated June 16, 2003.

14. Applicants received the Communication dated December 10, 2004 (exhibit H) dismissing the Petition filed on July 16, 2003. The Communication admits that it is undisputed that a new specification and drawings were among the papers filed on July 13, 2001. The Communication requests that Applicants submit a true copy of the specification, claims and drawings as Applicants intended them to be filed on July 13, 2001 (and as were actually filed on that date), and any Information Disclosure Statement or any other application papers filed on that date.

15. In accordance with the request in the Communication dated December 10, 2004, and a telephone conversation on January 28, 2005, between one of Applicants' representatives and Examiner Nancy Johnson, Applicants provide herewith copies of, in the attached exhibits discussed above, the papers requested in the Communication (see item 14 above).

REASONS WHY THE RELIEF REQUESTED SHOULD BE GRANTED

Applicants believe that the application papers for the '706 application were erroneously switched with the copy of the co-pending application cited in the PA/IDS. Applicants further believe that the erroneous switch occurred at the USPTO during the initial processing of the application papers for the '706 application.

As indicated on the receipt postcard of exhibit A and the Transmittal Form of exhibit D, there should be 91 pages of specification/claims/abstract and 28 sheets of drawings in the '706 application. Applicants believe that the application papers presently in the USPTO file of the '706 application include 106 pages of specification/claims/abstract corresponding to the copy of the co-pending application cited in the PA/IDS, and that those 106 pages were erroneously switched in place of the correct application papers for the '706 application.

Because the error is not believed to be the result of actions or omissions by Applicants, no petition fee is believed to be due. However, if a petition fee is deemed to be required to have the present Petition considered, the Commissioner is authorized to charge the requisite petition fee to Deposit Account 06-1205.

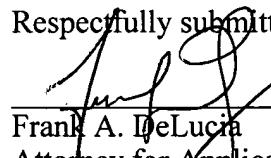
CONCLUSION

In view of the foregoing, Applicants respectfully request correction of the application papers presently in the USPTO file of the '706 application. In particular, it is

respectfully requested that the USPTO officially recognize that the application papers identified in item 2 above constitute the '706 patent application. Favorable consideration is earnestly solicited.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

  
\_\_\_\_\_  
Frank A. DeLucia  
Attorney for Applicants  
Registration No. 42,476

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200

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BOX PATENT APPLICATION

Director, the Commissioner for Patents  
Washington, D.C. 20231

Date 07 / 13 / 01  
Mo. Day Yr.

Atty. Docket 25 C 12551D

Div of S.N. 091024, 187

Sir:

Kindly acknowledge receipt of the accompanying:

Specifications, claims and abstract 91 pages, with Transmittal Form  
 Oath or Declaration and Power of Attorney  Executed  Not Executed  
 28 Sheets of  formal  informal drawings  
 Check for \$ 950.00 — (Filing fee)  
 Small entity declaration  
 Assignment, PTO-1595 and Check for \$ \_\_\_\_\_  
 Transmittal Under 37 CFR 1.53(d) (CPA)  
 Petition under 37 CFR 1.136 and check for \$ \_\_\_\_\_  
 Other (specify) Utility Patent Application and Information Disclosure Statement, PTO-1449 form, copies of four (4) documents  
by placing your receiving date stamp hereon and mailing or returning to deliverer.  
This is a  Continuation  Divisional  Continuation-In-Part

FCHS-A-95

Atty. LSK/oo

Due Date N / D / D  
Mo. Day Yr.

37 CFR 1.8   
37 CFR 1.10   
By Hand